

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 285 be amended to read as follows:

- 1 Page 19, between lines 34 and 35, begin a new paragraph and insert:
- 2 "SECTION 10. IC 6-3.5-1.1-8 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A special
- 4 account within the state general fund shall be established for each
- 5 county adopting the county adjusted gross income tax. **Subject to**
- 6 **section 9(i) of this chapter**, any revenue derived from the imposition
- 7 of the county adjusted gross income tax by a county shall be deposited
- 8 in that county's account in the state general fund.
- 9 (b) Any income earned on money held in an account under
- 10 subsection (a) becomes a part of that account.
- 11 (c) Any revenue remaining in an account established under
- 12 subsection (a) at the end of a fiscal year does not revert to the state
- 13 general fund.
- 14 SECTION 11. IC 6-3.5-1.1-9, AS AMENDED BY P.L.146-2008,
- 15 SECTION 327, IS AMENDED TO READ AS FOLLOWS
- 16 [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Revenue derived from the
- 17 imposition of the county adjusted gross income tax shall, in the manner
- 18 prescribed by this section, be distributed to the county that imposed it.
- 19 The amount to be distributed to a county during an ensuing calendar
- 20 year equals the amount of county adjusted gross income tax revenue
- 21 that the department, after reviewing the recommendation of the budget
- 22 agency, determines has been:
- 23 (1) received from that county for a taxable year ending before the
- 24 calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made; as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county adjusted gross income tax made in the state fiscal year.

(b) Before August 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall certify to the county auditor of each adopting county the amount determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified shall be adjusted under subsections (c), (d), (e), (f), (g), and (h). The budget agency shall provide the county council with an informative summary of the calculations used to determine the certified distribution. The summary of calculations must include:

- (1) the amount reported on individual income tax returns processed by the department during the previous fiscal year;
- (2) adjustments for over distributions in prior years;
- (3) adjustments for clerical or mathematical errors in prior years;
- (4) adjustments for tax rate changes; and
- (5) the amount of excess account balances to be distributed under IC 6-3.5-1.1-21.1.

The department shall also certify information concerning the part of the certified distribution that is attributable to a tax rate under section 24, 25, or 26 of this chapter. This information must be certified to the county auditor and to the department of local government finance not later than September 1 of each calendar year. The part of the certified distribution that is attributable to a tax rate under section 24, 25, or 26 of this chapter may be used only as specified in those provisions.

(c) The department shall certify an amount less than the amount determined under subsection (b) if the department, after reviewing the recommendation of the budget agency, determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

(d) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any adjustment

under this subsection is offset over several years rather than in one (1) lump sum.

(e) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the distribution required under section 10(b) of this chapter.

(f) This subsection applies to a county that:

(1) initially imposes the county adjusted gross income tax; or

(2) increases the county adjusted income tax rate;

under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (a)(1) through (a)(2) in the manner provided in subsection (c).

(g) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the distribution required under section 3.3 of this chapter beginning not later than the tenth month after the month in which additional revenue from the tax authorized under section 3.3 of this chapter is initially collected.

(h) This subsection applies in the year in which a county initially imposes a tax rate under section 24 of this chapter. Notwithstanding any other provision, the department shall adjust the part of the county's certified distribution that is attributable to the tax rate under section 24 of this chapter to provide for a distribution in the immediately following calendar year equal to the result of:

(1) the sum of the amounts determined under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(a) in the year in which the county initially imposes a tax rate under section 24 of this chapter; multiplied by

(2) two (2).

(i) This subsection applies to certified distributions for calendar years beginning after December 31, 2009. As used in this subsection, "nonresident employee" refers to an individual who:

(1) is a member of the fire department (as defined in IC 36-8-1-8) of a city or a member of the police department (as defined in IC 36-8-1-9) of a city; and

(2) pays county adjusted gross income tax to a county other than the county in which the city is located because the individual qualified as a resident county taxpayer of the other county;

on the date specified in section 16 of this chapter in a taxable year used by the department to compute a certified distribution to the

1 county where the city is located. The department, after reviewing
 2 the recommendation of the budget agency, shall establish a
 3 procedure for cities to certify the information required by the
 4 department to allow the department to determine the amount of
 5 county adjusted gross income tax collected from nonresident
 6 employees of the city. An amount equal to twenty-five percent
 7 (25%) of the county adjusted gross income tax attributable to the
 8 adjusted gross income of the nonresident employee, including taxes
 9 imposed under section 24, 25, or 26 of this chapter, shall be
 10 retained from the county adjusted gross income tax that would
 11 otherwise be deposited in the special account and distributed to the
 12 county where the nonresident employee is a resident county
 13 taxpayer. The retained amount shall be maintained in a separate
 14 account of the county where the city employing the nonresident
 15 employee as a police officer or firefighter is located and distributed
 16 separate from the certified distribution of that county. The
 17 department, after reviewing the recommendation of the budget
 18 agency, shall certify the amount to be retained and redistributed
 19 under this subsection to the county auditor of both the county
 20 where the nonresident employee is a resident county taxpayer and
 21 the county where the city employing the nonresident employee is
 22 located as part of the initial certification of each county's certified
 23 distribution under subsection (b) or as a later separate adjustment
 24 to the initially certified amount. The amount retained and
 25 redistributed under this subsection shall not be considered in
 26 setting any tax rate under this chapter by the county where the
 27 nonresident employee is a resident county taxpayer. The amount
 28 redistributed under this subsection must be used for public safety
 29 purposes.

30 SECTION 12. IC 6-3.5-6-16 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) A special
 32 account within the state general fund shall be established for each
 33 county that adopts the county option income tax. **Subject to section**
 34 **17(j) of this chapter**, any revenue derived from the imposition of the
 35 county option income tax by a county shall be deposited in that county's
 36 account in the state general fund.

37 (b) Any income earned on money held in an account under
 38 subsection (a) becomes a part of that account.

39 (c) Any revenue remaining in an account established under
 40 subsection (a) at the end of a fiscal year does not revert to the state
 41 general fund.

42 SECTION 13. IC 6-3.5-6-17, AS AMENDED BY P.L.146-2008,
 43 SECTION 338, IS AMENDED TO READ AS FOLLOWS
 44 [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) Revenue derived from
 45 the imposition of the county option income tax shall, in the manner
 46 prescribed by this section, be distributed to the county that imposed it.
 47 The amount that is to be distributed to a county during an ensuing

1 calendar year equals the amount of county option income tax revenue
 2 that the department, after reviewing the recommendation of the budget
 3 agency, determines has been:

4 (1) received from that county for a taxable year ending in a
 5 calendar year preceding the calendar year in which the
 6 determination is made; and

7 (2) reported on an annual return or amended return processed by
 8 the department in the state fiscal year ending before July 1 of the
 9 calendar year in which the determination is made;

10 as adjusted (as determined after review of the recommendation of the
 11 budget agency) for refunds of county option income tax made in the
 12 state fiscal year.

13 (b) Before August 2 of each calendar year, the department, after
 14 reviewing the recommendation of the budget agency, shall certify to the
 15 county auditor of each adopting county the amount determined under
 16 subsection (a) plus the amount of interest in the county's account that
 17 has accrued and has not been included in a certification made in a
 18 preceding year. The amount certified is the county's "certified
 19 distribution" for the immediately succeeding calendar year. The amount
 20 certified shall be adjusted, as necessary, under subsections (c), (d), (e),
 21 and (f). The budget agency shall provide the county council with an
 22 informative summary of the calculations used to determine the certified
 23 distribution. The summary of calculations must include:

24 (1) the amount reported on individual income tax returns
 25 processed by the department during the previous fiscal year;

26 (2) adjustments for over distributions in prior years;

27 (3) adjustments for clerical or mathematical errors in prior years;

28 (4) adjustments for tax rate changes; and

29 (5) the amount of excess account balances to be distributed under
 30 IC 6-3.5-6-17.3.

31 The department shall also certify information concerning the part of the
 32 certified distribution that is attributable to a tax rate under section 30,
 33 31, or 32 of this chapter. This information must be certified to the
 34 county auditor and to the department of local government finance not
 35 later than September 1 of each calendar year. The part of the certified
 36 distribution that is attributable to a tax rate under section 30, 31, or 32
 37 of this chapter may be used only as specified in those provisions.

38 (c) The department shall certify an amount less than the amount
 39 determined under subsection (b) if the department, after reviewing the
 40 recommendation of the budget agency, determines that the reduced
 41 distribution is necessary to offset overpayments made in a calendar
 42 year before the calendar year of the distribution. The department, after
 43 reviewing the recommendation of the budget agency, may reduce the
 44 amount of the certified distribution over several calendar years so that
 45 any overpayments are offset over several years rather than in one (1)
 46 lump sum.

(d) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(e) This subsection applies to a county that:

(1) initially imposed the county option income tax; or

(2) increases the county option income tax rate;

under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (a)(1) through (a)(2) in the manner provided in subsection (c).

(f) This subsection applies in the year a county initially imposes a tax rate under section 30 of this chapter. Notwithstanding any other provision, the department shall adjust the part of the county's certified distribution that is attributable to the tax rate under section 30 of this chapter to provide for a distribution in the immediately following calendar year equal to the result of:

(1) the sum of the amounts determined under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(a) in the year in which the county initially imposes a tax rate under section 30 of this chapter; multiplied by

(2) the following:

(A) In a county containing a consolidated city, one and five-tenths (1.5).

(B) In a county other than a county containing a consolidated city, two (2).

(g) One-twelfth (1/12) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 16 of this chapter to the appropriate county treasurer on the first day of each month of that calendar year.

(h) Upon receipt, each monthly payment of a county's certified distribution shall be allocated among, distributed to, and used by the civil taxing units of the county as provided in sections 18 and 19 of this chapter.

(i) All distributions from an account established under section 16 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.

(j) This subsection applies to certified distributions for calendar

years beginning after December 31, 2009. As used in this subsection, "nonresident employee" refers to an individual who:

(1) is a member of the fire department (as defined in IC 36-8-1-8) of a city or a member of the police department (as defined in IC 36-8-1-9) of a city; and

(2) pays county option income tax to a county other than the county in which the city is located because the individual qualified as a resident county taxpayer of the other county;

on the date specified in section 20 of this chapter in a taxable year used by the department to compute a certified distribution to the county where the city is located. The department, after reviewing the recommendation of the budget agency, shall establish a procedure for cities to certify the information required by the department to allow the department to determine the amount of county option income tax collected from nonresident employees of the city. An amount equal to twenty-five percent (25%) of the county option income tax attributable to the adjusted gross income of the nonresident employee, including taxes imposed under section 30, 31, or 32 of this chapter, shall be retained from the county option income tax that would otherwise be deposited in the special account and distributed to the county where the nonresident employee is a resident county taxpayer. The retained amount shall be maintained in a separate account of the county where the city employing the nonresident employee as a police officer or firefighter is located and distributed separate from the certified distribution of that county. The department, after reviewing the recommendation of the budget agency, shall certify the amount to be retained and redistributed under this subsection to the county auditor of both the county where the nonresident employee is a resident county taxpayer and the county where the city employing the nonresident employee is located as part of the initial certification of each county's certified distribution under subsection (b) or as a later separate adjustment to the initially certified amount. The amount retained and redistributed under this subsection shall not be considered in setting any tax rate under this chapter by the county where the nonresident employee is a resident county taxpayer. The amount redistributed under this subsection must be used for public safety purposes.

SECTION 14. IC 6-3.5-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A special account within the state general fund shall be established for each county adopting the county economic development income tax. **Except as provided in section 11(i) of this chapter**, any revenue derived from the imposition of the county economic development income tax by a county shall be credited to that county's account in the state general fund.

(b) Any income earned on money credited to an account under

subsubsection (a) becomes a part of that account.

(c) Any revenue credited to an account established under subsection (a) at the end of a fiscal year may not be credited to any other account in the state general fund.

SECTION 15. IC 6-3.5-7-11, AS AMENDED BY P.L.146-2008, SECTION 345, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Revenue derived from the imposition of the county economic development income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it.

(b) Before August 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall certify to the county auditor of each adopting county the sum of the amount of county economic development income tax revenue that the department determines has been:

(1) received from that county for a taxable year ending before the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county economic development income tax made in the state fiscal year plus the amount of interest in the county's account that has been accrued and has not been included in a certification made in a preceding year. The amount certified is the county's certified distribution, which shall be distributed on the dates specified in section 16 of this chapter for the following calendar year.

(c) The amount certified **under subsection (b)** shall be adjusted under subsections ~~(c)~~, (d), (e), (f), ~~and~~ (g), **and (h)**. The budget agency shall provide the county council with an informative summary of the calculations used to determine the certified distribution. The summary of calculations must include:

(1) the amount reported on individual income tax returns processed by the department during the previous fiscal year;

(2) adjustments for over distributions in prior years;

(3) adjustments for clerical or mathematical errors in prior years;

(4) adjustments for tax rate changes; and

(5) the amount of excess account balances to be distributed under IC 6-3.5-7-17.3.

~~(c)~~ **(d)** The department shall certify an amount less than the amount determined under subsection (b) if the department, after reviewing the recommendation of the budget agency, determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that

any overpayments are offset over several years rather than in one (1) lump sum.

~~(d)~~ (e) After reviewing the recommendation of the budget agency, the department shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

~~(e)~~ (f) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the distribution required under section 16(b) of this chapter.

~~(f)~~ (g) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the amount of any tax increase imposed under section 25 or 26 of this chapter to provide additional homestead credits as provided in those provisions.

~~(g)~~ (h) This subsection applies to a county that:

(1) initially imposed the county economic development income tax; or

(2) increases the county economic development income rate; under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (b)(1) through (b)(2) in the manner provided in subsection ~~(c)~~: (d).

(i) This subsection applies to certified distributions for calendar years beginning after December 31, 2009. As used in this subsection, "nonresident employee" refers to an individual who:

(1) is a member of the fire department (as defined in IC 36-8-1-8) of a city or a member of the police department (as defined in IC 36-8-1-9) of a city; and

(2) pays county economic development income tax to a county other than the county in which the city is located because the individual qualified as a resident county taxpayer of the other county;

on the date specified in section 17 of this chapter in a taxable year used by the department to compute a certified distribution to the county where the city is located. The department, after reviewing the recommendation of the budget agency, shall establish a procedure for cities to certify the information required by the

department to allow the department to determine the amount of county economic development income tax collected from nonresident employees of the city. An amount equal to twenty-five percent (25%) of the county economic development income tax attributable to the adjusted gross income of the nonresident employee, including any additional tax under section 26 of this chapter, shall be retained from the county economic development income tax that would otherwise be deposited in the special account and distributed to the county where the nonresident employee is a resident county taxpayer. The retained amount shall be maintained in a separate account of the county where the city employing the nonresident employee as a police officer or firefighter is located and distributed separate from the certified distribution of that county. The department, after reviewing the recommendation of the budget agency, shall certify the amount to be retained and redistributed under this subsection to the county auditor of both the county where the nonresident employee is a resident county taxpayer and the county where the city employing the nonresident employee is located as part of the initial certification of each county's certified distribution under subsection (b) or as a later separate adjustment to the initially certified amount. The amount retained and redistributed under this subsection shall not be considered in setting any tax rate under this chapter by the county where the nonresident employee is a resident county taxpayer. The amount redistributed under this subsection must be used for public safety purposes.

SECTION 16. IC 36-8-4-2, AS AMENDED BY P.L.65-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Members of the police and fire departments must reside in Indiana within

(1) the county in which the city is located. or

(2) a county that is contiguous to the county in which the city is located.

(b) In a consolidated city, a member who was residing outside the county on January 1, 1975, is exempt from subsection (a).

(c) An individual to whom subsection (b) does not apply and who serves as a member of a city police or city fire department and resides outside the city that the individual serves on June 30, 2009, may reside in:

(1) the county in which the city is located; or

(2) a county that is contiguous to the county in which the city is located;

after June 30, 2009, as long as the individual continues to serve as a member of the same city police or fire department.

(d) A city with a population of less than seven thousand five hundred (7,500) may adopt an ordinance that requires a member of the city's police or fire department to comply with the following:

- 1 (1) Reside within the county in which the city is located.
- 2 (2) Have adequate means of transportation into the city.
- 3 (3) Maintain in the member's residence telephone service with the
- 4 city.
- 5 ~~(d)~~ (e) This subsection applies to a city that:
- 6 (1) has a population of less than seven thousand five hundred
- 7 (7,500); and
- 8 (2) adopted an ordinance to establish the requirements described
- 9 in this subsection before September 1, 1984.
- 10 A city may require, in addition to the requirements of subsection ~~(c)~~,
- 11 (d), that a member of the police or fire department reside within the
- 12 city until the member has served in the department for five (5) years.
- 13 ~~(c)~~ (f) An ordinance adopted under subsection ~~(c)~~ (d) or described
- 14 in subsection ~~(d)~~(2) (e)(2) may not require a member of a city's police
- 15 or fire department **who was a member of the city's police or fire**
- 16 **department before July 1, 2009**, to reside within the county in which
- 17 the city is located if the member resides outside the county on the date
- 18 the ordinance is adopted."
- 19 Renumber all SECTIONS consecutively.
(Reference is to ESB 285 as printed April 10, 2009.)

Representative Crawford